

(3) Stipulations or admissions of fact or as to the contents and authenticity of documents;

(4) Limitation of the number of witnesses;

(5) Exchange of witness lists, copies of prior statements of witnesses, and copies of hearing exhibits;

(6) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(7) Discovery;

(8) Possible changes in the scheduled hearing date, time or site; and

(9) Any other matters related to the proceeding.

(b) Within a reasonable time after the completion of a prehearing conference, the Presiding Officer shall issue an order detailing all matters agreed upon by the parties, or ordered by the Presiding Officer, at such conference.

§ 962.11 Respondent access to information.

(a)(1) Except as provided in paragraph (a)(2) of this section, the Respondent, at any time after receiving the Notice of Hearing required by § 962.6, may review, and upon payment of a duplication fee established under § 265.8(c) of this title, may obtain a copy of, all relevant and material documents, transcripts, records, and other materials, which relate to the allegations of liability, and upon which the findings and conclusions of the Investigating Official under § 273.5 of this title are based.

(2) The Respondent is not entitled to review or obtain a copy of any document, transcript, record, or other material which is privileged under Federal law.

(b) At any time after receiving the Notice of Hearing required by § 962.6, the Respondent shall be entitled to obtain all exculpatory information in the possession of the Investigating Official or the Reviewing Official relating to the allegations or liability under 31 U.S.C. 3802. Paragraph (a)(2) of this section does not apply to any document, transcript, record, or other material, or any portion thereof, in which such exculpatory information is contained.

(c) Requests to review or copy material under this section must be directed

to the Reviewing Official who must respond within a reasonable time.

§ 962.12 Depositions; interrogatories; admission of facts; production and inspection of documents.

(a) *General Policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any discovery procedure permitted under this part, the Presiding Officer may issue any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Such orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents. Each party shall bear its own expenses relating to discovery.

(b) *Depositions.* (1) After the issuance of a Notice of Hearing described in § 962.6, the parties may mutually agree to, or the Presiding Officer may, upon application of either party and for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purposes of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(2) The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the Presiding Officer.

(3) No testimony taken by depositions shall be considered as part of the evidence in the hearing unless and until such testimony is offered and received in evidence at such hearing. Depositions will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted for a decision on the record, the Presiding Officer may, in his discretion, receive depositions as evidence in supplementation of that record.